

# Senate Daily Reader

**Tuesday, February 14, 2006**

Bills Included				
HB 1054	HB 1069	HB 1071	HB 1075	HB 1082
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# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

716M0382

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1054** - 01/23/2006

Introduced by: Representatives Rhoden, Brunner, Buckingham, Jensen, Michels, and Putnam  
and Senators McNenny and Napoli

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding an increase of the  
2 prizes that certain lotteries may award.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-25-25 be amended to read as follows:

5 22-25-25. The game, bingo, as defined in § 22-25-23 or lottery as defined in § 22-25-24 may  
6 not be construed as gambling or as a lottery within the meaning of § 22-25-1, if:

7 (1) The bingo game or lottery is conducted by a bona fide congressionally chartered  
8 veterans' organization; a religious, charitable, educational, or fraternal organization;  
9 a local civic or service club; a political party; a volunteer fire department; or a  
10 political action committee or political committee on behalf of any candidate for a  
11 political office which exists under the laws of the State of South Dakota;

12 (2) The proceeds therefrom do not inure to the benefit of any individual;

13 (3) No separate organization or professional person is employed to conduct the bingo  
14 game or lottery or assist therein;

15 (4) No compensation of any kind in excess of the state minimum wage per hour or sixty



dollars, whichever is greater, in value is paid to any person for services rendered during any bingo session in connection with the conduct of the bingo game or in consideration of any lottery. However, the provisions of this subdivision do not apply to games or lotteries conducted in connection with any of the following events: a county fair conducted pursuant to § 7-27-3, the state fair conducted pursuant to chapter 1-21, or a civic celebration recognized by resolution or other similar official action of the governing body of a county, municipality, or village;

(5) No prize in excess of two thousand dollars is awarded at any one play of bingo ~~and no lottery prize is in excess of thirty thousand dollars in value. However, a;~~

(5A) The actual value of any lottery prize is stated before any chances for the lottery are sold. A lottery prize of thirty thousand dollars or less a stated amount of dollars in value may also be given to a person who sells a winning lottery ticket or share as long as the winning lottery ticket or share is selected at random;

(6) The organizations authorized under subdivision (1) of this section, before conducting a bingo game or before selling any chances for a lottery give thirty days' written notice of the time and place thereof to the governing body of the county or municipality in which it intends to conduct the bingo game or lottery, and the governing body does not pass a resolution objecting thereto. However, any organization that conducts a lottery and tickets or shares for such lottery are sold state-wide shall provide written notice of such lottery pursuant to this subdivision only to the secretary of state and to the governing body where the drawing for such lottery is held. A municipality pursuant to § 9-29-5 may by ordinance prohibit within the municipality the sale of lottery tickets or shares for such lottery issued pursuant to this section; and

1       (7)   No organization authorized to conduct a bingo game or lottery under subdivision (1)  
2           of this section may enter into any lease or agreement with any other person or  
3           organization to provide equipment or services associated with the conduct of a bingo  
4           game or lottery. However, this subdivision does not apply to any lease or agreement  
5           with a distributor licensed pursuant to §§ 22-25-28 to 22-25-51, inclusive, to provide  
6           bingo or lottery equipment and supplies.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

444M0099

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1069** - 02/02/2006

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Dykstra and Rounds and Senators Napoli, Bartling, and Gray

- 1 FOR AN ACT ENTITLED, An Act to prohibit the public sale of tax certificates.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. Notwithstanding the provisions of chapters 10-23, 10-24, and 10-25, no county
- 4 may sell any tax certificate after July 1, 2006. The county shall be the holder of any tax
- 5 certificate issued by the county after July 1, 2006. The county treasurer shall continue to serve
- 6 notice on the owner of record of the real property, publish notice, and attend to the other
- 7 administrative provisions imposed by chapter 10-23, 10-24, and 10-25. Nothing in this section
- 8 affects the holder of any existing tax certificate, the method in which the tax certificate is
- 9 redeemed, or the sale of real property for taxes or assessments.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

820M0166

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1071** -

01/26/2006

Introduced by: Representatives Tidemann, Brunner, Davis, Dennert, Frysliie, Gassman, Hackl, Halverson, Hargens, Haverly, Heineman, Howie, Hunhoff, Jensen, Klaudt, Lange, Nelson, O'Brien, Peters, Rausch, Rave, Rounds, Sigdestad, and Street and Senators Hanson (Gary), Bartling, Duenwald, Earley, Gray, Kloucek, Koskan, Lintz, McNenny, Moore, Peterson (Jim), Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to amend the composition, supervision, and functioning of  
2 the State Seed Certification Board.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-11-2 be amended to read as follows:

5 38-11-2. All members of the State Seed Certification Board shall be electors of the state; ~~one~~  
6 two shall be ~~a person~~ persons recommended for appointment by the South Dakota Crop  
7 Improvement Association; ~~one shall be a person recommended for appointment by the South~~  
8 ~~Dakota Horticultural Society~~; one shall be a representative of the State Department of  
9 Agriculture; ~~one~~ two ~~member~~ shall be ~~a person~~ persons recommended by the dean of agriculture  
10 at South Dakota State University; ~~one shall be a person recommended for appointment by the~~  
11 ~~South Dakota Potato Growers' Association; the~~. The members of the board shall be appointed  
12 so as to represent all areas of the state. The secretary of agriculture shall make these



1 appointments from ~~a list~~ lists of two or more names submitted for each position on the board.

2 Section 2. That § 38-11-1.1 be amended to read as follows:

3 38-11-1.1. The Seed Certification Board shall be administered under the direction and  
4 supervision of the ~~Department of Agriculture and the secretary thereof~~ College of Agriculture  
5 and Biological Sciences at South Dakota State University and the dean of the college, but shall  
6 retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special  
7 budgetary functions ~~(as defined in § 1-32-1)~~, otherwise vested in it and shall exercise those  
8 functions independently of the ~~secretary of agriculture~~ dean and the college.

9 Section 3. That § 38-11-4 be amended to read as follows:

10 38-11-4. The State Seed Certification Board shall hold its meetings ~~at the seat of~~  
11 ~~government~~ at such times and places as it designates, ~~but there shall not be~~. The board shall hold  
12 at least one, but not more than four regular meetings each year, including the annual meeting  
13 ~~which shall be held on the last Tuesday of January of each year, at which~~. At the annual meeting  
14 the president, vice-president, and secretary shall be elected for the ensuing year; ~~provided that~~  
15 ~~the~~. The president of the board ~~shall have power to~~ may call special meetings whenever ~~in his~~  
16 ~~judgment he finds~~ the president judges it necessary.

17 Section 4. That § 38-11-6 be amended to read as follows:

18 38-11-6. ~~The State Seed Certification Board is~~ secretary of agriculture and the dean of the  
19 College of Agriculture and Biological Sciences at South Dakota State University shall designate  
20 the official seed certifying agency for the state. ~~The board~~ State Seed Certification Board may  
21 designate one or more public or private entities to perform necessary seed certification activities  
22 under the supervision of the board. The board may designate separate official certification  
23 agencies for various types or classifications of seed or propagating materials. The board shall  
24 notify the secretary and the dean of any designations made pursuant to this section.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

597M0049

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1075** - 02/08/2006

Introduced by: Representatives Buckingham, Boomgarden, Brunner, Cutler, Davis, Deadrick, Dennert, Dykstra, Elliott, Faehn, Frost, Fryslie, Garnos, Gassman, Gillespie, Glover, Hackl, Halverson, Hanks, Hargens, Haverly, Heineman, Hennies, Hills, Howie, Hunhoff, Hunt, Jensen, Jerke, Klaudt, Koistinen, Kraus, Krebs, Kroger, Lange, McCoy, McLaughlin, Michels, Miles, Murschel, Nelson, Novstrup, O'Brien, Olson (Ryan), Peters, Putnam, Rausch, Rave, Rhoden, Roberts, Rounds, Schafer, Sebert, Sigdestad, Street, Tidemann, Turbiville, Van Etten, Vehle, Weems, Wick, and Willadsen and Senators McCracken, Bogue, Duniphan, Gray, Hansen (Tom), Koetzle, Kooistra, Lintz, McNenny, Moore, Napoli, Olson (Ed), Schoenbeck, Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the disposition of  
2 confiscated weapons and firearms.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-37-13 be amended to read as follows:

5 23A-37-13. Any controlled weapon or firearm used in violation of chapter 22-14 shall be  
6 disposed of as follows:

7 (1) If it is stolen, it shall be returned to the lawful owner upon proof of ownership; or

8 (2) If it is illegal, it shall be destroyed pursuant to law; or

9 (3) If it is neither stolen nor illegal, it shall be delivered to the arresting agency or, at the  
10 direction of the attorney general, to the South Dakota Forensic Laboratory for





1           scientific examination purposes, for lawful use or disposal.

2           In the case of a disposition pursuant to subdivision (3), the arresting agency or forensic  
3   laboratory may use, trade-in, ~~or~~ destroy, or sell, as provided in § 5-23-32, 5-24-9.2 or 6-13-6,  
4   the controlled weapon or firearm.

5           Section 2. That chapter 23A-37 be amended by adding thereto a NEW SECTION to read  
6   as follows:

7           Any moneys derived by the South Dakota Forensic Laboratory from the sale of weapons or  
8   firearms pursuant to section 1 of this Act shall be deposited in the law enforcement officers  
9   training fund.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

165M0379

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1082 -**

**02/07/2006**

Introduced by: Representatives Deadrick, Brunner, Dykstra, Halverson, Hargens, Jensen, Nelson, Rhoden, Sigdestad, and Tidemann and Senators Bogue, Dempster, Duenwald, Hansen (Tom), Hanson (Gary), Koskan, McNenny, Peterson (Jim), Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for uniform jurisdiction in the regulation of  
2 certain seed, commercial fertilizer, commercial feed, animal remedies, and pesticide.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The provisions of South Dakota law and rules preempt any local legislation  
5 adopted by any political subdivision of the state that is related to the production, use,  
6 advertising, sale, distribution, storage, transportation, formulation, packaging, labeling,  
7 certification, registration, application, planting, or disposal of seed as defined in § 38-12A-1,  
8 commercial fertilizer as defined in § 38-19-1, commercial feed as defined in § 39-14-39, animal  
9 remedies as defined in § 39-18-1, and pesticide as defined in § 38-20A-1. No political  
10 subdivision may adopt or continue in effect any such local legislation regardless of whether a  
11 statute or a rule adopted by the state specifically preempts the local legislation. Local legislation  
12 in violation of this section is void and unenforceable. For purposes of this section, the term,  
13 local legislation, means any ordinance, motion, resolution, amendment, regulation, or rule



1     adopted by a political subdivision of the state.

2           Nothing in this section preempts or otherwise limits the authority of any county or  
3     municipality to adopt and enforce zoning regulations, fire codes, building codes, or waste  
4     disposal restrictions.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

167M0492

## HOUSE ENGROSSED NO. **HB 1091** - 01/27/2006

Introduced by: Representatives Dykstra, Frost, Hackl, Jerke, Miles, and Rave and Senators  
Koskan, McCracken, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to authorize the Public Utilities Commission to approve  
2 tariff mechanisms for the automatic annual adjustment of charges for jurisdictional costs of  
3 new or modified transmission facilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 49-34A be amended by adding thereto a NEW SECTION to read  
6 as follows:

7 Notwithstanding any other provision of this chapter, the commission may approve a tariff  
8 mechanism for the automatic annual adjustment of charges for the jurisdictional costs of new  
9 or modified transmission facilities with a design capacity of thirty-four and one-half kilovolts  
10 or more and which are more than five miles in length. For the purposes of this Act, electric  
11 transmission facilities and electric transmission lines covered by this section include associated  
12 facilities such as substations and transformers.

13 Section 2. That chapter 49-34A be amended by adding thereto a NEW SECTION to read  
14 as follows:

15 Upon filing of an application consistent with rules promulgated by the commission by any



public utility providing transmission service, the commission may approve, reject, or modify, after notice, hearing, and comment, a tariff that:

- (1) Allows the public utility to recover on a timely basis the costs net of revenues of facilities described in section 1 of this Act;
- (2) Allows a return on investment at the level approved in the public utility's last general rate case, unless a different return is found to be consistent with the public interest;
- (3) Provides a current return on construction work in progress, if the recovery from retail customers for the allowance for funds used during construction is not sought through any other mechanism;
- (4) Allocates project costs appropriately between wholesale and retail customers; and
- (5) Terminates recovery once costs have been fully recovered or have otherwise been reflected in the public utility's general rates.

Section 3. That chapter 49-34A be amended by adding thereto a NEW SECTION to read as follows:

A public utility may file annual rate adjustments to be applied to customer bills paid under the tariff approved pursuant to section 2 of this Act. In the utility's filing, the public utility shall provide:

- (1) A description of and context for the facilities included for recovery;
- (2) A schedule for implementation of applicable projects;
- (3) The public utility's costs for these projects;
- (4) A description of the public utility's efforts to ensure the lowest reasonable costs to ratepayers for the project; and
- (5) Calculations to establish that the rate adjustment is consistent with the terms of the tariff established in section 2 of this Act.

1       Section 4. That chapter 49-34A be amended by adding thereto a NEW SECTION to read  
2 as follows:

3       Upon receiving a filing under section 3 of this Act for a rate adjustment pursuant to the tariff  
4 established in section 2 of this Act, the commission shall approve the annual rate adjustments  
5 if, after notice, hearing, and comment, the costs included for recovery through the tariff were  
6 or are expected to be prudently incurred and achieve transmission system improvements at the  
7 lowest reasonable cost to ratepayers.

8       Section 5. That § 49-1A-8 be amended to read as follows:

9       49-1A-8. There is created a special fund within the state treasury to be known as the South  
10 Dakota Public Utilities Commission Regulatory Assessment Fee fund. The Public Utilities  
11 Commission may require a public utility as defined in subdivision 49-34A-1(12) to make a  
12 deposit of up to one hundred thousand dollars when it files for approval of a general rate case,  
13 regardless of the number of issues involved, or files an integrated resource plan. The  
14 commission may require a deposit of up to one hundred twenty-five thousand dollars for a filing  
15 which combines a general rate case and an integrated resource plan. The commission may  
16 require a deposit of up to fifty thousand dollars for the filing of a tariff for approval under the  
17 provisions of this Act. The deposits shall be made to the South Dakota Public Utilities  
18 Commission Regulatory Assessment Fee fund, the amount to be designated by commission  
19 order. The fund shall be invested as provided by law, and the interest earned shall be credited  
20 to the fund.

21       Section 6. That § 49-34A-4 be amended to read as follows:

22       49-34A-4. The commission shall regulate to the extent provided in this chapter every public  
23 utility as defined ~~herein~~ in this chapter. The commission may promulgate rules pursuant to  
24 chapter 1-26 in furtherance of the purposes of this chapter concerning:

- 1 (1) Procedures and requirements for applications for rate and tariff changes;
- 2 (2) Requirements for gas and electric utilities to maintain and make available to the
- 3 public and the commission records and information;
- 4 (3) Requirements and procedures regarding customer billings and meter readings;
- 5 (4) Requirements regarding availability of meter tests;
- 6 (5) Requirements regarding billing adjustments for meter errors;
- 7 (6) Procedures and requirements for handling customer disputes and complaints;
- 8 (7) Procedures and requirements regarding temporary service, changes in location of
- 9 service and service interruptions;
- 10 (8) Standards and procedures to ensure nondiscriminatory credit policies;
- 11 (9) Procedures, requirements and record-keeping guidelines regarding deposit policies;
- 12 (10) Procedures, requirements and record-keeping guidelines regarding customer refunds;
- 13 (11) Policies for refusal of gas or electric service;
- 14 (12) Policies for disconnection and transfer of gas and electric service;
- 15 (13) Customer payment plans for delinquent bills; ~~and~~
- 16 (14) Requirements regarding advertising; and
- 17 (15) Procedures and requirements for applications for tariff mechanisms seeking the
- 18 automatic annual adjustment of charges for the jurisdictional costs of new or
- 19 modified transmission facilities under the provisions of section 1 of this Act.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

357M0254

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1112 - 01/26/2006**

Introduced by: Representatives Deadrick, Boomgarden, Buckingham, Davis, Dykstra, Frost, Garnos, Glover, Hackl, Hills, Howie, Hunt, Jensen, Jerke, Nelson, Novstrup, Rhoden, Rounds, Sigdestad, Turbiville, Van Etten, and Willadsen and Senators Lintz, Bartling, Greenfield, McNenny, Moore, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to exempt certain real property owned by local industrial  
2 development corporations from property taxation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 One hundred thousand dollars of the full and true value of the total amount of real property  
7 or portion thereof owned by a local industrial development corporation defined pursuant to § 5-  
8 14-23 is exempt from property taxation. The full and true value of the real property that is in  
9 excess of one hundred thousand dollars shall be taxed as other property of the same class is  
10 taxed.

11 Section 2. That § 10-4-15 be amended to read as follows:

12 10-4-15. Any person, organization, corporation, or association claiming a property tax  
13 exemption status for any property under section 1 of this Act or §§ 10-4-9 to 10-4-14, inclusive,  
14 or as may otherwise be provided by law, shall apply for such exemption to the county director





- 1 of equalization on forms prescribed by the secretary of revenue and regulation prior to
- 2 November first of the tax year.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

336M0588

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1113** - 02/09/2006

Introduced by: Representatives Deadrick and Rhoden and Senators Earley and Bogue

1 FOR AN ACT ENTITLED, An Act to exempt claims related to wildland fire operations outside  
2 the state from certain workers' compensation provisions and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 62-1-5.2 be amended to read as follows:

5 62-1-5.2. Any firefighter who is a member of any county, municipal, special purpose district,  
6 township, or private nonprofit corporation operating as a fire department that has on file a  
7 cooperative fire suppression agreement with the South Dakota Department of Agriculture, and  
8 has been approved by the governing body for assignment to the state, is eligible for workers'  
9 compensation benefits from the state if injured during a period of time commencing from the  
10 time dispatched by the secretary of agriculture ~~or the secretary's designee~~ until the time the  
11 firefighter returns to the location from which the firefighter was originally dispatched by the  
12 secretary of agriculture ~~or the secretary's designee~~. In the event of injury or death, the firefighter  
13 shall, for the purpose of computing compensation, be considered to be earning a wage that  
14 would entitle that person to the maximum compensation for death or injury allowable under this  
15 title; but in no event may payments to any firefighter exceed the maximum limitations for



1 benefits as set out in this title.

2 For purposes of determining compensation any remuneration received by a member who  
3 voluntarily serves the department may not be considered.

4 No firefighter under this section may be deemed a state employee for any purpose other than  
5 eligibility to receive workers' compensation from the state under this section.

6 No workers' compensation benefits may be provided by the state if the claim arises while  
7 dispatched to a wildland fire outside the state, unless the fire is a threat to resources within  
8 South Dakota.

9 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,  
10 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
11 effect from and after its passage and approval.

# State of South Dakota

## EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

547M0547

### HOUSE ENGROSSED NO. **HB 1132** - 02/08/2006

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Hanks, Boomgarden, Brunner, Buckingham, Davis, Garnos, Glenski, Howie, Kraus, Krebs, McCoy, Novstrup, Rausch, Rhoden, Turbiville, Van Etten, and Weems and Senators Adelstein, Abdallah, Broderick, Koskan, McCracken, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to create immunity for reporting prenatal alcohol or  
2 substance abuse.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-23B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any physician, physician's assistant, nurse, nurse practitioner, nurse midwife, counselor,  
7 social worker, licensed or registered child welfare provider, employee or volunteer of a domestic  
8 abuse center, chemical dependency counselor, or safety sensitive position as defined in  
9 subdivision 23-3-64(2) who provides services to a pregnant woman may make a referral to a  
10 prevention or treatment program accredited pursuant to chapter 34-20A if the provider has  
11 information that a pregnant woman is engaging in the abusive use of alcohol or use of any  
12 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter  
13 22-42 or 34-20B. Any such provider, who, in good faith, makes a referral to a prevention or  
14 treatment program accredited pursuant to chapter 34-20A of a pregnant woman engaging in



1 abusive use of alcohol, abusive use of a lawfully prescribed controlled substance, or use of any  
2 controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapter  
3 22-42 or 34-20B, is immune from any liability, civil or criminal, that might otherwise be  
4 incurred or imposed, and has the same immunity with respect to participation in any judicial  
5 proceeding resulting from the referral. This immunity also extends to any public official who  
6 in good faith is involved in the investigation of such conduct or to any person described in this  
7 section who in good faith cooperates with any public official in an investigation. Any referral  
8 pursuant to this section is permissive and nothing in this section requires the making of any  
9 referral.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

823M0453

## HOUSE ENGROSSED NO. **HB 1141** - 02/06/2006

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Murschel and Dennert and Senators Nesselhuf and Kooistra

1 FOR AN ACT ENTITLED, An Act to provide standards for interpreting for the deaf and hard-  
2 of-hearing by requiring national interpreter certification and to repeal the state certification  
3 process and replace it with registration.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. For the purposes of this Act, the term, interpreting, means the process of  
6 providing accessible communication between and among persons who are deaf or hard-of-  
7 hearing and those who are hearing. This process includes communication between American  
8 Sign Language and English. Interpreting may involve various other modalities that involve  
9 visual, gestural, and tactile methods.

10 Section 2. No person may do any of the following with respect to providing interpreting  
11 services for any person who is deaf or hard-of-hearing for a fee or other remuneration unless  
12 certified pursuant to sections 3 or 4 of this Act and registered with the Department of Human  
13 Services:

14 (1) Engage in the practice of, or offer to engage in the practice of, interpreting;

15 (2) Use the title, interpreter, in connection with the person's name; or



(3) Use the title, interpreter, in advertisements or descriptions.

A violation of this section is a Class 2 misdemeanor.

Section 3. The department may issue provisional certification to a person who:

(1) Has graduated from a postsecondary degree program of two years or more accredited in interpreter preparation or interpreter education;

(2) Participates in a department approved plan of up to five years in preparation for national testing that includes continuing education units and mentoring; and

(3) Registers annually with the department.

Provisional certification may be granted for no more than five years.

Section 4. A person is certified if the person is at least one of the following:

(1) Certified by the Registry of Interpreters for the Deaf and in good standing;

(2) Certified by the National Association of the Deaf and in good standing;

(3) Certified by the Educational Interpreters Proficiency Assessment with a score of at least 3.5 and in good standing; or

(4) Certified by the Department of Human Services prior to July 1, 2006, and in good standing.

A person certified pursuant to subdivision (4) may continue this certification only so long as the person completes one hundred twenty-five continuing education units every five years, remains in good standing with the department, and registers annually with the department. Any person certified pursuant to this section shall register annually with the department.

Section 5. Any person may engage in interpreting during the worship service of any religious organization without being certified pursuant to sections 3 or 4 of this Act and registered with the Department of Human Services.

Section 6. That § 1-36A-10.1 be amended to read as follows:

1 1-36A-10.1. The Department of Human Services ~~may examine, certify,~~ shall register and  
2 renew the ~~certificates~~ registrations annually of ~~duly qualified applicants to be interpreters for~~  
3 ~~the deaf~~ any person certified in accordance with sections 3 or 4 of this Act who demonstrates  
4 compliance with this Act and payment of the applicable fees.

5 Section 7. That § 1-36A-11 be amended to read as follows:

6 1-36A-11. ~~The Department of Human Services shall establish a review panel, which shall~~  
7 ~~meet at least semiannually, to review and assign interpreter qualification levels based upon a~~  
8 ~~performance review before the panel, a review of certification issued by another state or territory~~  
9 ~~or a review of certification issued by a nationally administered examination. The review panel~~  
10 ~~shall consist of five individuals who are fluent in American sign language, signed English, or~~  
11 ~~a combination of both. Three individuals shall be deaf or hard of hearing, and two individuals~~  
12 ~~shall be Level V South Dakota certified interpreters. All individuals serving on the review panel~~  
13 ~~shall have successfully completed the evaluators' training based on the National Association for~~  
14 ~~the Deaf Interpreter Assessment Evaluator's Manual. The department shall maintain, and~~  
15 ~~publish, and make available upon request a registry of all certified interpreters and their~~  
16 ~~respective levels of qualification.~~

17 Section 8. That § 1-36A-12 be amended to read as follows:

18 1-36A-12. The Department of Human Services may promulgate rules pursuant to chapter  
19 1-26 to ~~establish interpreter certificate qualifications,~~ establish continuing education  
20 requirements for individuals registered with the department pursuant to subdivision (4) of  
21 section 4 of this Act, and ~~may establish separate interpreter certification to establish~~  
22 qualifications, continuing education requirements, mentoring requirements, and requirements  
23 for an approved plan for provisional certification, ~~as well as for interpreters serving in medical,~~  
24 educational, or legal settings pursuant to section 3 of this Act, and to establish qualifications for



1 interpreters serving in medical, educational, or legal settings.

2 Section 9. That § 1-36A-13 be amended to read as follows:

3 1-36A-13. The fund for certification of interpreters for the deaf ~~is hereby created~~ in the state  
4 treasury is renamed the fund for registration of interpreters for the deaf. All fees received by the  
5 Department of Human Services and money collected under § 1-36A-15 shall be deposited in the  
6 fund. Any money in the fund is continuously appropriated to the department for expenses  
7 incurred in the provisional certification and registration of interpreters for the deaf and may be  
8 expended by the secretary of human services. ~~The compensation and expenses of the interpreter~~  
9 ~~review panel shall be paid from the fees received under the provisions of § 1-36A-15. The~~  
10 ~~department may require any applicant who is taking a nationally administered examination to~~  
11 ~~remit the portion of the certification fee covering the cost of the examination directly to the~~  
12 ~~organization administering the examination.~~

13 Section 10. That § 1-36A-14 be amended to read as follows:

14 1-36A-14. Any balance of fees received by the Department of Human Services after  
15 payment of compensation and expenditures may be expended by the secretary of human services  
16 only in administering §§ 1-36A-10.1 to 1-36A-16, inclusive, and this Act.

17 Section 11. That § 1-36A-15 be amended to read as follows:

18 1-36A-15. The Department of Human Services shall promulgate rules pursuant to chapter  
19 1-26 to establish the following nonrefundable fees for provisional certification and registration:

- 20 (1) For ~~initial or~~ provisional certification ~~by examination or endorsement~~, not more than  
21 three hundred twenty-five dollars;
- 22 (2) For ~~reexamination, not more than the amount required for initial certification by~~  
23 ~~examination or endorsement~~ initial registration, not more than fifty dollars;
- 24 (3) For annual renewal of ~~certificate~~ registration, not more than thirty-five dollars;

- 1 (4) For effecting a name change upon the records of a ~~certificate holder~~ registrant, not  
2 more than ten dollars;
- 3 (5) ~~For reinstatement of a lapsed certificate, the current fee for initial certification by~~  
4 ~~examination or endorsement, and~~
- 5 ~~—(6)—For issuing a duplicate certificate registration, not more than ten dollars; and~~
- 6 (6) For initial registration and annual renewal of individuals certified pursuant to  
7 subdivision (4) of section 4, not more than seventy-five dollars.

8 Section 12. That § 1-36A-16 be amended to read as follows:

9 1-36A-16. ~~Sections~~ The provisions of this Act and §§ 1-36A-10.1 to 1-36A-15, inclusive,  
10 do not prohibit:

- 11 (1) Any signing assistance in a medical emergency until the assistance of a certified  
12 interpreter is obtained;
- 13 (2) The practice of interpreting, if directly supervised by a certified interpreter, included  
14 in a program of study by a student enrolled in an approved program for the  
15 preparation of interpreters for the deaf;
- 16 (3) The practice of a legally qualified interpreter for the deaf from another state  
17 employed by the United States government and performing official duty in this state;  
18 and
- 19 (4) The practice of interpreting in this state by an interpreter for the deaf currently  
20 licensed in another state, territory, or foreign country who is present in this state to  
21 lecture relative to the practice of interpreting for a period of not more than twenty  
22 days.

23 Section 13. That § 1-36A-19 be repealed.

24 ~~—1-36A-19. Any interpreter for the deaf receiving remuneration for services in any~~

1 ~~interpreting situation shall participate in a review panel's evaluation and satisfactorily achieve~~  
2 ~~certification within one year of registration pursuant to § 1-36A-11. A violation of this section~~  
3 ~~is a Class 2 misdemeanor.~~

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

760M0659

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1186** - 02/10/2006

Introduced by: Representatives Murschel, Elliott, Hunt, Jensen, Michels, and Rave and  
Senators Gray, Abdallah, Dempster, Gant, Kooistra, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide a procedure for implementing the standard  
2 visitation guidelines.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 25-4A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any parent subject to a court order relating to visitation, custody, or child support may  
7 request the court to enter an order implementing the standard visitation guidelines. The request  
8 shall be in writing, but no particular formality is required by the moving party. Upon receipt of  
9 the written request, the court shall serve a copy of the standard guidelines upon both parties by  
10 first class mail. If either party objects to the imposition of the standard guidelines within ten  
11 days of service, the court shall conduct an expedited hearing as soon as practical. Based upon  
12 the evidence presented at the hearing, the court may order the parties to abide by the standard  
13 visitation guidelines or may order any other relief as it deems appropriate.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

609M0247

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1206** - 02/08/2006

Introduced by: Representatives Garnos, Bradford, Hennies, Hills, and Turbiville and  
Senators Adelstein, Dempster, and Lintz

1 FOR AN ACT ENTITLED, An Act to provide contractors' excise, sales, and use tax refunds for  
2 the filming of certain motion pictures, documentaries, television advertisements, or  
3 television films.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Terms used in this Act mean:

6 (1) "Department," the Department of Revenue and Regulation;

7 (2) "Film," any portion of a commercial production of a motion picture, documentary,  
8 television advertisement, or television film;

9 (3) "Filming date," the first date a person commits to the Department of Tourism and  
10 State Development that South Dakota will be the primary location for shooting  
11 footage for a film;

12 (4) "Person," any individual, firm, copartnership, joint venture, association, limited  
13 liability company, limited liability partnership, corporation, estate, trust, business  
14 trust, receiver, unit of government, political subdivision of any state, or any group or  
15 combination acting as a unit;



(5) "Project," the building of sets, purchase of materials, and other costs associated with the filming or production of a motion picture, documentary, television advertisement, or television film;

(6) "Project cost," the amount paid in money, credits, property, or other money's worth for a project;

(7) "Secretary," the secretary of the Department of Revenue and Regulation.

Section 2. As provided in this Act, any person holding a permit issued pursuant to this Act may apply for and obtain a refund or credit for sales or use tax imposed and paid by such person under the provisions of chapter 10-45 or 10-46 and contractors' excise taxes imposed and paid under the provisions of chapter 10-46A or 10-46B on the project costs.

Section 3. The refund of taxes for a motion picture, documentary, television advertisement, or television film pertains only to project costs incurred and paid after July 1, 2006, and within thirty-six months of the approval of the application required by this Act. No refund may be made unless:

(1) The project cost that are occurred in South Dakota exceeds the sum of two hundred fifty thousand dollars in taxable costs; and

(2) The person applying for the refund obtains a permit from the secretary as set forth in this Act.

Section 4. If the project cost for a new motion picture, documentary, television advertisement, or television film exceeds two hundred fifty thousand dollars in taxable costs, the refund shall be one hundred percent of the taxes attributed to the taxable project costs in excess of two hundred fifty thousand dollars.

Section 5. Any person desiring to claim a refund pursuant to this Act shall apply for a permit from the secretary at least thirty days prior to the shooting of the motion picture, documentary,

1 television advertisement, or television film. The application for a permit shall be submitted on  
2 a form prescribed by the secretary. A separate application shall be made and submitted for each  
3 project. Upon approval of the application, the secretary shall issue a permit entitling the  
4 applicant to submit refund claims as provided by this Act. Such permit or refund claims are not  
5 assignable or transferable except as collateral or security pursuant to chapter 57A-9.

6 Section 6. Any claim for refund shall be submitted on forms prescribed by the secretary and  
7 shall be supported by such documentation as the secretary may require. The secretary may deny  
8 any claim where the claimant has failed to provide information or documentation requested or  
9 considered necessary by the secretary to determine the validity of the claim.

10 Section 7. Any person issued a permit pursuant to this Act shall submit a return to the  
11 department no more frequently than on or before the last day of each month and no less  
12 frequently than on or before the last day of each month following each calendar quarter. The  
13 secretary shall determine and pay the amount of the tax refund within thirty days of receipt of  
14 the return. Ninety-five percent of the amount of refund shall be paid to the claimant in  
15 accordance with §§ 10-59-22 and 10-59-23, and five percent shall be withheld by the  
16 department. No interest may be paid on the refund amount. If electronic funds transfer is  
17 available to the secretary, the secretary shall pay the refund by electronic funds transfer if  
18 requested by the claimant.

19 Section 8. The amounts withheld by the department in accordance with this Act shall be  
20 retained until the project has been completed and the claimant has met all the conditions of this  
21 Act, at which time all sums retained shall be paid to the claimant.

22 Section 9. If any claim has been fraudulently presented or supported as to any item in the  
23 claim, or if the claimant fails to meet all the conditions of this Act, then the claim may be  
24 rejected in its entirety and all sums previously refunded to the claimant shall constitute a debt

1 to the state and a lien in favor of the state upon all property and rights to property whether real  
2 or personal belonging to the claimant and may be recovered in an action of debt.

3 Section 10. Any person, aggrieved by the denial in whole or in part of a refund claimed  
4 under this Act, may, within thirty days after service of the notice of such denial by the secretary,  
5 demand a hearing, upon notice, before the secretary. The hearing shall be conducted pursuant  
6 to chapter 1-26.

7 Section 11. Any person, aggrieved by a decision of the secretary under this Act, may, within  
8 thirty days of receipt of written notice of the secretary's decision, make written application to  
9 the secretary for a hearing to be conducted pursuant to chapter 1-26. Hearings are to be  
10 conducted and appeals taken pursuant to the provisions of chapters 1-26 and 1-26D. A copy of  
11 the hearing examiner's proposed decision, findings of fact, and conclusions of law shall be  
12 served on all parties when furnished to the secretary. If the secretary, pursuant to chapter 1-26D,  
13 accepts the final decision of the hearing examiner, no appeal from a final decision of the  
14 secretary upon any additional tax to be paid may be taken unless any amount ordered paid by  
15 the secretary is paid or a bond filed to insure payment of the amount. However, if the final  
16 decision of the secretary, pursuant to chapter 1-26D, rejects or modifies the decision of the  
17 hearing examiner regarding the amount due, an appeal may be taken without payment of the  
18 amount ordered to be paid and without filing of a bond. If the secretary's decision is affirmed  
19 by the circuit court, no appeal may be taken unless any amount ordered to be paid by the  
20 secretary is paid or a bond is filed to insure payment of such amount.

21 Section 12. Any amount refunded pursuant to this Act for a project that is not completed  
22 within the time frames prescribed by this Act, including any extensions granted by the secretary,  
23 shall be returned to the state without interest. Any refunded amounts not returned pursuant to  
24 this section and all sums previously refunded to the claimant constitute a debt to the state and



1 a lien in favor of the state upon all property and rights to property whether real or personal  
2 belonging to the claimant and may be recovered in an action of debt.

3 Section 13. The secretary shall promulgate rules, pursuant to chapter 1-26, concerning the  
4 procedures for filing refund claims and the requirements necessary to qualify for a refund.

5 Section 14. This Act is repealed on June 30, 2011.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0653

## HOUSE ENGROSSED NO. **HB 1226** - 02/02/2006

Introduced by: The Committee on Taxation at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to expand the tax refund for agricultural processing  
2 facilities to include expansions to existing facilities and to revise the time period in which  
3 an application must be submitted.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-45B-1 be amended to read as follows:

6 10-45B-1. Terms used in this chapter mean:

- 7 (1) "Construction date," the first date earth is excavated for the purpose of constructing  
8 a project;
- 9 (2) "Department," the Department of Revenue and Regulation;
- 10 (3) "Nameplate capacity," the number of kilowatts a power unit can produce according  
11 to the nameplate assigned to the power unit generator by the manufacturer;
- 12 (4) "New agricultural processing facility," a new building or structure, or the expansion  
13 of an existing building or structure, the construction of which is subject to  
14 contractors' excise tax pursuant to chapter 10-46A or 10-46B. A new agricultural  
15 processing facility is any new building or structure, or the expansion of an existing  
16 building or structure, constructed for the initial or subsequent processing of any form



1 of agricultural commodity, product, or by-product. A new agricultural processing  
2 facility does not include any building or structure constructed for raising or feeding  
3 of livestock or the expansion of an existing agricultural processing facility except as  
4 provided in § 10-45B-1.2;

5 (5) "Person," any individual, firm, copartnership, joint venture, association, limited  
6 liability company, limited liability partnership, corporation, estate, trust, business  
7 trust, receiver, unit of government, political subdivision of any state, rural electric  
8 cooperative, consumers power district or any group or combination acting as a unit;

9 (6) "Power generation facility," a facility with one power unit that generates electricity  
10 with a nameplate capacity of no less than five hundred megawatts;

11 (7) "Project," the construction of a new agricultural processing facility or a new business  
12 facility at a single site;

13 (8) "Project cost," the amount paid in money, credits, property, or other money's worth  
14 for a project;

15 (9) "Secretary," the secretary of the Department of Revenue and Regulation.

16 Section 2. That § 10-45B-1.2 be repealed.

17 ~~—10-45B-1.2. For purposes of this chapter, a new agricultural processing facility as defined~~  
18 ~~in § 10-45B-1 includes an expansion to an existing soybean processing facility if the expansion~~  
19 ~~will be used for the production of biodiesel.~~

20 Section 3. That § 10-45B-4 be amended to read as follows:

21 10-45B-4. The refund of taxes for a new agricultural processing facility pertains only to  
22 project costs incurred and paid after April 1, 1997, and within thirty-six months of the approval  
23 of construction date as stated on the application required by § 10-45B-6. No refund may be  
24 made unless:

- 1       (1)    The project cost exceeds the sum of four million five hundred thousand dollars; and
- 2       (2)    The person applying for the refund obtains a permit from the secretary as set forth in
- 3           § 10-45B-6.

4       Section 4. That § 10-45B-6 be amended to read as follows:

5       10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a

6       permit from the secretary ~~at least thirty days prior to~~ or within one hundred eighty days after the

7       construction date. However, any project with a construction date between ~~February 1, 2005~~

8       January 1, 2006, and July 1, ~~2005~~ 2006, that would otherwise qualify for a refund shall apply

9       for a permit by August 1, ~~2005~~ 2006. The application for a permit shall be submitted on a form

10      prescribed by the secretary. A separate application shall be made and submitted for each project.

11      Upon approval of the application, the secretary shall issue a permit entitling the applicant to

12      submit refund claims as provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims

13      are not assignable or transferable except as collateral or security pursuant to chapter 57A-9.